The patent to Elmore (US Patent No. 6,609,445 B2; August 26, 2003) was issued, obviously, on August 26, 2003. The instant application was filed on 03/02/2004. A year from August 26, 2003 would end on the date August 25, 2004. The instant application was filed earlier than that date and, thus, Elmore was not "...patented or described in a printed publication in this or a foreign country..." more than a year from the date of the instant application for patent in the United States. It is Applicant's understanding that Elmore may, therefore, not be used to deny Applicant's application for patent under Section 102(b).

Even if the instant application were validly rejected under the more than one year requirement of Section 102(b), Section 706.02(b) of the MPEP indicates that, among other things, "A rejection based on 35 U.S.C. 102(b) can be overcome by:

(A) Persuasively arguing that the claims are patentably distinguishable from the prior art;

(B) Amending the claims to patentably distinguish over the prior art; or...."

The Applicant asserts that the claims of the instant invention are patentably distinguishable from Elmore. The Applicant concedes that Elmore does disclose a large socket driven by "turning means," but asserts that the basic concepts behind the invention in Elmore and that of the instant invention are entirely different and that the differences are patentably distinguishable. The device disclosed in Elmore does have "cut out portions" designed to allow the socket to fit over irregularities in the valve as does the instant invention. However, the socket in Elmore contacts the surface of the valve in the same manner as any other of dozens of well known sockets. That is, the inside surface of the interior of the socket contacts with a flat spot on the body of the valve. This method of surface to surface contact will not work on a pressure tank valve because of the configuration of the valve. There is no accessible flat surface on the body of the valve for the socket to engage. That is the very reason the valve socket of the instant invention was invented. Sockets which engage in the conventional manner with the inside surface of the socket contacting a flat surface on the object to be turned, will not work on a pressure tank valve.

In the instant invention, the inner surface of the socket does not contact the pressure tank valve at all, but is intended to enclosed the valve without bearing upon any of the relatively fragile elements of the valve body itself. The valve body disclosed in Elmore is apparently sufficiently sturdy that the socket may safely engage the valve body. The instant invention has at

its open end "...a pair of opposed bearing surfaces which are parallel to each other and capable of fitting over and engaging the shoulder of said valve..." That is, only the bearing surfaces on the end of the socket engage any part of the valve body and then not upon the working portions of the valve, but only upon a pair of shoulders at the base of the valve thus protecting the relatively fragile working parts of the valve itself.

The Applicant knows of no other prior art socket, including that in Elmore, in which the end of the socket rather than the interior surface of the socket engages the object to be turned. The basic purpose of the instant invention is a socket which has an interior which fits over a valve body to protect the fragile elements. The interior of the socket disclosed in Elmore is designed not to fit over and protect the valve elements, but to engage the actual valve body as a turning surface. The Applicant submits that this makes the claim of the instant invention "...patentably distinguishable from the prior art..." and, thus, the provisions of Section 102(b) should not apply.

Although it was not referenced in the Office Action because the rejection was under Section 35 U.S.C. 102(b), the Examiner did indicate that a patent to Julio et al. (US Pat. No. 6,062,110; May 16, 2000) "...is considered pertinent to applicant's disclosure." Applicant will comment briefly upon the disclosure in Julio. The invention in Julio discloses a wrench which is adapted to fit over and remove or attach a pressurized gas tank valve. This device is, at least arguably, somewhat similar to the instant invention in that it has a wrench which fits over the body of a valve and turning means to turn the valve. However, Julio further discloses at least two elements: a wrench element which engages the valve and a chamber sleeve which slides down over the wrench element, "...said chamber sleeve and said wrench element thereby forming a chamber to secure the valve so that rotation of said chamber causes the valve to rotate therewith." (Claim 1) Section 2144.04 II. B. indicates that "...the omission of an element and retention of its function is an indicia of unobviousness." Although the Applicant would not attempt to predict some future rejection, the Applicant would assert that the one piece valve socket of the instant invention retains the function of the socket while omitting the chamber sleeve element of Julio.

Conclusion

For all of the foregoing reasons, the applicant submits that the pressure tank valve socket disclosed and claimed in the present application is not fairly taught by any of the references of record, taken either alone or in combination and that for the reasons state above, the application should not be rejected under Section 102(b). Therefore, allowance of the present application is in order, and is requested.

Respectfully submitted;

Gene R. Woodle
Reg. No. 36,973
Tel. No. (605) 342-0853
cc: David McCarthy

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Gene R. Woodle, Reg. No. 36,973

Dated: September 14, 2004